

COMMONWEALTH OF VIRGINIA  
DIVISION OF PURCHASES AND SUPPLY  
1111 E. BROAD STREET, 6th Floor  
P. O. BOX 1199  
RICHMOND, VIRGINIA 23218-1199

**CONTRACT AWARD**  
**OPTIONAL USE**

1. **DATE** ..... November 5, 2012
2. **COMMODITY NAME** ..... Ground Maintenance Equipment
3. **CONTRACT NUMBER** ..... E194-1485
4. **CONTRACT PERIOD** ..... November 5, 2012 through November 4, 2015
5. **COMMODITIES** ..... 02000, 51500, 54500, & 76000
6. **AUTHORIZED USERS** ..... State Agencies and Other Public Bodies
7. **CONTRACTORS' eVA No.** ..... VS0000085329
8. **CONTRACTOR** ..... The Toro Company
9. **CONTRACTOR'S PHONE NUMBER** ..... See Contact Information
10. **TERMS** ..... SPCC or Net 30 Days
11. **DELIVERY** ..... See delivery information
12. **F.O.B.** ..... Destination
13. **MINIMUM ORDER** ..... \$500.00
14. **USAGE** ..... OPTIONAL
15. **FOR FURTHER CONTRACT INFORMATION CONTACT:** ..... Mary L. Hicks-Coston, VCO  
Phone: (804) 786-4068  
Fax: (804) 786-5413

16. ADDITIONAL COPIES OF CONTRACTS AND ANY ASSOCIATED CONTRACT CHANGES MAY BE VIEWED AND PRINTED AT THE DPS WEBSITE: [www.eva.virginia.gov](http://www.eva.virginia.gov)

17. **Notice To State Agencies:** This Contract is the result of a competitive solicitation and its use is optional for all state agencies. Other public bodies of the Commonwealth of Virginia are afforded the opportunity to purchase quality products at excellent pricing. This Contract is intended to cover the Commonwealth of Virginia and NASPO participating states with their normal requirements for the following categories of Ground Maintenance Equipment, which includes fourteen (14) categories.

**Note:** This public body does not discriminate against faith-based organizations in accordance with the *Code of Virginia*, § 2.2-4343.1 or against a bidder or offeror because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment.



Statewide Contract Officer

**CONTRACT INSTRUCTIONS**  
**E194-1485**

1. **Authorized Users:** Unless otherwise instructed by the Division of Purchases and Supply, state agencies, Institutions of higher education, and other public bodies of the Commonwealth of Virginia, to include cities, counties, towns, political subdivisions, and any approved NASPO Participants, may order ground maintenance equipment under this Contract.
2. **Renewals:** The initial term of the Contract is three (3) years. This Contract contains two (2) successive two-year renewal periods, and at a reasonable time (approximately four to six months) prior to the expiration, the decision as to whether to renew will be made by the Contract Officer.
3. **Purchase Orders:** Agencies, Institutions, and all other governmental bodies shall place all orders against this optional use term Contract in eVA. The orders will be governed by this Contract and the terms and conditions contained in the separate agreement for participation in eVA executed by the Contractor's assigned Distributors. Exclusion from the use of eVA for orders under this Contract is over-the-counter Small Purchase Charge Card; (SPCC) made at the point of sale and picked up by the individual cardholder and all NASPO Participants orders.
4. **Contractors Authorized Dealers:** Under this Contract with The Toro Company and its assigned Distributors, Turf Equipment and Supply Corporation (TESCO) and Smith Turf and Irrigation (STI), it is necessary to note that you may be serviced by a Territory Representative in your locality.
5. **Contact Distributor Information:** Under this Contract, all agencies, institutions of higher education, and other public bodies of the Commonwealth of Virginia, to include cities, counties, towns, political subdivisions, must contact their "local Distributor" listed in **ATTACHMENT C, Commonwealth of Virginia Distributors**. The agencies End Users shall contact only the Distributor that is located in your vicinity for the purchase of equipment, and any aftermarket service agreements that may be required on equipment purchased under this contract. Services are not included under this contract; however, an agency may contract with the contractor to acquire a negotiated price for a service maintenance agreement for purchased equipment. NASPO Participants upon approval by the Contractor will be provided with a list of Distributors for that participating state.
6. **Equipment Selection:** End Users under this Statewide Contract are required to contact your "local Distributor" or Contractor for the selected equipment that meet or exceed your requirements from the approved Categories by line item, and any additional approved basic unit(s) listed in the Categories. In order to meet your specific requirements, additional attachment/implements may be required to reconfigure the equipment to meet your specifications.
7. **Clean Air Act for Off Road Vehicles using Diesel Fuel - Tier 4:** All equipment that is provided under this Contract that falls under the Clean Air Act for Off Road Vehicles using Diesel Fuel - Tier 4 must be provided in accordance to any regulations set forth to meet the Code of Federal Regulation (CFR) for Tier 4, effective January 1, 2013. The Environmental Protection Agency produced a progressive series of emissions standards for all new off-road diesel engines, which are known as the Tier 4 Emission Standards.
8. **Written Quotations:** End Users must obtain a written quote from the selected Distributor that must include; but not limited to: the percentage of discount off the currently approved manufacturers published price list, net cost, contract number, delivery time, make, model, attachments/implements (if requested), with a description of the equipment, and warranty.
9. **Price List and Catalogs:** The Contractor or Distributor(s) are required, upon request of any user, to provide the user with catalogs and descriptive literature, and a listing of authorized Distributors for any NASPO participating states per terms and conditions stipulated under this Contract. This information is to be provided to the ordering agency within (5) business days of the request.
10. **Delivery Service:** This Contract contains approved equipment specifications for basic units manufactured by the Contractor per Category(s) and line item less a firm percentage of discount against the manufacturer approved current published price list. For specific delivery information, refer to the **PRICING**

**INFORMATION, ATTACHMENT B** attached. In the event the item is not in stock and the delivery timeframe cannot be met, the Distributor shall contact the ordering agency to ascertain whether a back order is acceptable or to cancel the order.

11. **Inspection/Approval:** Inspection on delivery and approval of Contractor's invoice is the responsibility of the receiving State Agency, Institution, or Public Body. If found to be defective or if it fails in any way to meet the specifications of the Contract, it may be rejected. The Contractor will replace all rejected equipment within the stated lead-time or less based on availability of the equipment.
12. **Transportation Charges:** All equipment shall be delivered **FOB DESTINATION** for all orders equal to, or greater, than the minimum order of \$500.00, when shipped to a single or multiple destinations to any location within the Commonwealth of Virginia or any NASPO participating state. Orders for less than the minimum order will be shipped prepaid, with transportation charges added to the invoice as a separate line item. Transportation charges levied by the Contractor for orders equal to, or greater than the minimum order, when shipped to a single or multiple destinations, may be cause for removal of the Contractor from the Contract. The Contractor shall not add freight charges for back orders to an invoice where the original total price of an order exceeded the minimum order. The Contractor shall assume full responsibility of freight charges for partial shipment and back orders.
13. **Delivery:** Delivery will be complete within the delivery schedule listed under **ATTACHMENT B - Pricing Information under Delivery** after the receipt of purchase order (ARO). In the event the delivery is not received within the contract delivery period, the contractor may be held in default in accordance with **Section XII. General Terms and Conditions, Item P**, the Commonwealth, after due oral or written notice, may procure the equipment from other sources, and hold the Contractor responsible for any resulting additional purchase and administrative costs.
14. **Returns:** Any equipment delivered damaged or does not meet Contract written specifications, may be returned at the discretion of the ordering agency and the Contractor. The End User must contact the Contractor for return goods authorization (RGA) prior to returning the equipment to the Contractor or Distributor within 30 days. The Contractor shall issue a credit for the returned goods immediately upon receipt of the equipment at their designated facility. The Contractor(s) shall not charge End Users for returns in the event that the Contractor shipped incorrect equipment or the items did not meet the Contract specification.

The Commonwealth of Virginia's General Terms and Conditions and this Contracts Special Terms and Conditions take precedent over any return policy statements of the contractor in the event of a conflict.

15. **Equipment Trade-Ins:**

**Turf Equipment and Supply Corporation (TESCO):** TESCO is unable to accept Trade Ins for Category 5, items 8, 9, 10 and Category 6 item 1 & 2. For all other Categories by line items, the End Users that wish to trade-in equipment toward the purchase of "new equipment" under this Contract may do so, if permitted by their internal policies and agreed to mutually by the Distributor. The trade-In value will be determined by negotiation between the agency's End-Users and TESCO. Upon mutual agreement of a trade-in value, the description of the equipment and the trade-in value will be itemized on the End User's purchase order, and the trade-in value will be deducted from the Contract price of the new equipment. TESCO will invoice the End User for the Contract purchase price less the trade-in value.

**Smith Turf and Irrigation (STI):** End Users that wish to trade-in equipment toward the purchase of "new equipment" under this Contract from STI may do so, if permitted by their internal policies and agreed to mutually by STI. The trade-in value will be determined by negotiation between the agency's End-Users and STI. Upon mutual agreement of a trade-in value, the description of the equipment and the trade-in value will be itemized on the End User's purchase order and the trade-in value will be deducted from the Contract price. STI will invoice the End User for the Contract purchase price less the trade-in value.

16. **Warranty:** Equipment furnished under this Contract is warranted for a minimum of one year after receipt of Equipment or by the most favorable commercial warranty offered by the Contractor given to any customer for such goods or services. The Contractor's equipment sold under this Contract comes with the manufacturer's standard warranty that exceeds the minimum 12-month requirement. The End Users may purchase an extended warranty services agreement at the Contractor's standard extended warranty service rate agreed

upon by the End Users and Contractor's local Distributor, prior to purchase of the new equipment (Reference item 20 below).

17. **Material Safety Data Sheets:** The Contractor shall provide material Safety Data Sheets and descriptive literature, if applicable, upon request.
18. **Special Education or Promotional Discounts:** The contractor shall extend any special educational or promotional sale prices or discounts immediately to the Commonwealth during the term of this Contract. Such notice shall also advise the duration of the specific sale or discount price.
19. **Quantity Discount:** The Toro Company has offered the following multiple Unit Discount. Add the Contract discount to the multiple unit discount (ex: Discount + Multiple Unit Discount = Total Contract Discount). The volume discounts will apply to attachments/implements when purchased with basic units. Discounts are based on the following schedule:

| <u>Quantity</u>   | <u>Discounts</u> | <u>Published Price List</u> |
|-------------------|------------------|-----------------------------|
| 3 – 5 basic units | 1%               | Current approved PPL        |
| 5 – 7 basic units | 2%               | Current approved PPL        |

The Contractor at its discretion may offer additional discounts based on volume in conjunction with any promotional discount that is in effect at the time of order.

20. **Mandatory Acceptance of Small Purchase Charge Card:** The Contractor must accept payment by the Commonwealth of Virginia's small purchase card Contractor that is in effect at the time of order, currently Bank of America (BOA) Visa (unless waived by DPS) within 90 days of contract award. Payment for orders issued against the contract(s) must allow the Purchase Order Number to be passed at the time of charge so that the Purchase Order Number is received by the card platform and passed to the Card provider. Contractor's card account must be at Level 2, which is mandatory or Level 3, which is optional.
21. **EQUIPMENT REPLACEMENTS, SUBSTITUTION & OBSOLETE ITEMS:** Substitution of a manufacturer product, brand, or equipment after award of this Contract is expressly prohibited unless approved in writing by the Division of Purchases and Supply's Contract Officer. The agency at its discretion may require the Contractor to provide a substitute item of equivalent or better quality, subject to the approval by the Contract Officer, at the same contracted percentage of discount(s), if the product for which the contract was awarded becomes unavailable or obsolete to the distributor. Upon notification by the manufacturer or the distributor, stating that a product is being discontinued, the Contractor must contact the Contract Officer in writing for verification and consideration. Any obsolete or discontinued items must have written approval from the Contract Officer prior to making new/replacement product available to the end-users. Upon written approval from the Contract Officer, the Contractor may offer the new product as a direct or comparable replacement to all agencies and End Users. A Contract Modification will incorporate the new Published Price List that contains the new equipment at the time of renewal annually. The Contractor must offer the same percentage of discount based on the Contract award for all replacements for obsolete/discontinued items or equipment. Approval is contingent upon compliance with the following conditions:
  1. The Contractor requests approval in writing to the Contract Officer.
  2. The replacement equipment must offer the same or greater specifications than the product being replaced. The replacement equipment shall meet or exceed all performance level minimum specifications including accessories.
  3. The replacement equipment must be offered at the same percentage of discounts for the term of the Contract.

The Equipment offered in response to this solicitation should be the "newest product model" of the equipment available from the manufacturer. Ground maintenance equipment advertised as standard equipment in manufacturer's current Published Price List shall be furnished as standard equipment. No prototype, demo products, or rebuilt product will be accepted.
22. **Equipment/Services:** Contractor must provide warranty service and aftermarket services, if requested by an agency (for equipment purchased under this Contract), through their local Distributor network by location at the Distributors established service rate(s). The Distributor's service rates are not subject to the OEM's

Contract discount(s). Service rates shall be quoted by the Contractor or Distributor and approved by the End User or agencies authorized personnel, prior to entering an order in the eVA. The Commonwealth of Virginia and its users, and any other NASPO Participating state, must be provided “aftermarket” service for equipment purchased under this Contract. The brands offered by the Contractor must have a minimum of three (3) authorized service Distributors in each state. One of the factory authorized services Distributor should be in the area of the user’s location to provide services.

23. **Contract Participation:** Contractors that accept NASPO’s Cooperative Participation Agreement should accept the NASPO Agreement in its entirety. Each NASPO state that wishes to participate in this Contract must submit their Cooperative Participation Agreement directly to the Contractor for acceptance.

a) The WSCA-NASPO suggested Terms & Conditions outlines the requirements of the consortium, on an as needed basis under the same terms and conditions, including the firm percentage of discounts pricing in this Contract Award of the Commonwealth of Virginia or Participating Addendums. This Contract is being awarded with the understanding and agreement that it is for the sole convenience of the Participating Entities. The Participating Entities reserve the right to obtain like goods from other sources at the Participating Entity’s discretion.

b) Participating NASPO Entities:

1) Upon the award of a Contract and the request and acceptance of a participating NASPO Entity, the Contractor shall provide each participating NASPO Entity, by state, with a list of Distributors authorized to sell the approved equipment listed herein on that Manufacturer’s Published Price List for that state by assigned territories, “if applicable”. These documents should be required “only” at the time a NASPO Participating State has been accepted by a Contractor, and added as a Participating State under the Contract by a written Modification to this Contract by the Commonwealth’ (DPS) Purchasing Officer.

2) Participating NASPO Entities that agree to participate in this Contract Award shall receive the Contractor’s contracted firm Percentages of Discounts. The Distributors list received from the Contractor for that state shall include at a minimum the following information:

a) Contract number and Contact name; Phone number and Fax number and Email address.

24. **LEAD OFFICE CONTACT INFORMATION:** The Commonwealth of Virginia, Division of Purchases and Supply is the Lead State administrating the Contract management. The Commonwealth of Virginia’s General and Special Terms and Conditions will govern the resulting contracts. The Contract Administrator for this Contract at the Department of General Services - Division of Purchases and Supply is:

Mary L. Hicks-Coston, VCO  
Statewide Procurement Officer  
1111 East Broad Street  
Richmond, VA 23219  
Email: [mary.coston@dgs.virginia.gov](mailto:mary.coston@dgs.virginia.gov)  
Voice: 804-786-4068  
Fax: 804-786-5413

25. **CONTRACTORS CONTACT INFORMATION:** The Contractor’s direct contact information for this Contract at the Department of General Services - Division of Purchases and Supply is as follows:

The Toro Company  
8111 Lyndale Avenue South Bloomington  
Minnesota 55420-1196  
Contact: Peter Whitacre  
Telephone: 952-888-8801  
Fax: 952-887-8258  
Website Address: [www.toro.com](http://www.toro.com)

For direct orders, please follow the Instructions provided below under **CATEGORY AND CATALOG DISCOUNTS**

## **INSTRUCTIONS.**

26. **FINANCIAL WARRANTY:** Contractor shall ensure that the prices, discounts, incentives, and other financial terms (collectively, the “financial deal”) applicable to purchases under this Contract is always at least as favorable to the purchaser as the financial deal that the Contractor or its affiliates make available to any public body in Virginia for the same good(s)/service(s) outside this Contract. Throughout the term of this Contract, if Contractor (or any affiliate) makes a better financial deal available to a public body in Virginia for any good(s)/service(s) available under this Contract, Contractor shall immediately notify DGS of the details and, at DGS’s option, sign an amendment to this Contract, so that an equivalent financial deal for the affected good(s)/service(s) is also available as an option under this Contract.

Contractor may request exemption if the better financial deal was for a spot purchase, and DGS shall grant such request if DGS in good faith finds that the spot purchase involved special circumstances affecting cost that would make it unfair to apply an equivalent financial deal outside of that spot purchase. Upon DGS’s request (and annually on August 1), Contractor shall submit to DGS an affidavit certifying full compliance with this Section. The Contractor (and any affiliate) shall waive any contractual or other right that inhibits any public body in Virginia from disclosing to DGS or others the financial terms made available to the public body, and upon request from DGS, Contractor shall ensure that a signed confirmation of the waiver is provided to the public body and DGS. As used in this Section, an affiliate is any entity that controls, is controlled by, or is under common control with, the Contractor.

## **CATEGORY AND CATALOG DISCOUNTS INSTRUCTIONS**

### **E194.1485 (ONLY)**

Attachment A, B and C that follows this Contract Award Document includes the only approved equipment by Category and line item specifications. Each Category listed includes a completely configured unit to meet the specifications listed in Attachment A. Each Category in Attachment B includes a complete unit on line item one, to match the specification in Attachment A. The End Users may reconfigure this line item basic unit and/or all other basic units listed in each Category to meet their specification. Attachment B includes the manufacturer's model number, list price, less the firm percentage of discount for the basic unit. The basic unit(s) may be configured using the attachment/implements options per the published price listed with the firm percentage of discounts to meet the needs of the End Users. The End User must contact the Distributor that is identified in Attachment C for your Virginia County. The Distributor may refer you to their local "Territory Representative" for price quotes, delivery, and Trade-Ins. The Manufacturers' current published price, less the percentage of discount, unit price, and the current published price list effective date by Category and by line item are on Attachment B.

TO USE THESE PRICE SHEETS PROCEED AS FOLLOWS:

ATTACHMENT A: APPROVED CONTRACT SPECIFICATIONS BY CATEGORY AND LINE ITEM FOR GROUND MAINTENANCE EQUIPMENT:

- 1) Identify the Commodity Category. Search the individual Category per line item listed in Attachment A for your required specification. Each Category listed in Attachment A includes specification for the basic unit, and may include additional order codes (attachments/implements or options) that meet or exceed the minimum specification in Attachment A.
- 2) Contact the Distributor or Contractor that is identified in Attachment C to determine if the item(s) needed is covered under this Contract. If model number is not listed on Attachment A and B, it is not covered under this Contract. Only the basic units listed by Category with the manufacturer's model number(s) are covered under this Contract. Contractor percentage(s) of discount will not apply to equipment not covered under this Contract.

ATTACHMENT B: Contract Pricing, Model Numbers, Delivery & Effective Published Price List by Category and Line Item for Ground Maintenance Equipment:

- 1) After you have identified equipment specifications in Attachment A, proceed to Attachment B for pricing information. The items that are listed in Attachment B, Pricing Information are based on the manufacturer's published price list per category and line item, less a firm percentage of discount.
- 2) If the line items listed do not meet your required specification, the agency's End User must contact their Distributor to configure the listed basic unit with the additional attachment/implements to meet their desired specifications and to obtain a written quote. The written quotation must include the contract number, the manufacture's list price less the percentage of discount and the effective date of the price list.
- 3) Upon receipt of your written quotation from your Distributor or Territory Representative, and with the authorized approval at your agency, the agencies' End User **must then submit their purchase order through eVA directly to the Distributor (i.e. TESCO or STI) listed on Attachment C.**
- 4) Your local Distributor (**i.e. TESCO or STI**), will assign your "Territory Representative" to deliver and set-up and service your equipment F.O.B. Destination. **The End Users Distributor, will bill your agency for equipment ordered, and be responsible for all eVA fees.**

ATTACHMENT C: The Toro Company's Authorized Distributors for the Commonwealth of Virginia ~~

- 1) Find **Attachment C**, which includes Toro Company's authorized Distributors for the Commonwealth of Virginia. Any Distributors that are not listed **on Attachment C** cannot offer a quotation on behalf of The Toro Company using the fixed firm percentage of discount under this Contract.
- 2) **Attachment C, also list the Distributors authorized counties and territories that they service. The authorized Distributors may refer you to their assigned "Territory Representatives" to handles quotes, services, and Trade-Ins. However, all purchase orders shall be entered in eVA directly with the Distributor assigned to your Territory.**
- 3) The Contractor's website and direct contact information is listed in **Attachment B**, under the Contact Header.
- 4) End Users electing to use this "optional" use contract shall contract only with the Distributor(s) listed herein, in order, to receive the firm percentage of discount offered through The Toro Company.